

Town Council Meeting Minutes

April 12, 2010

6:30 pm

Rebecca Mann,

Lee Collins

Robert Miller

Frank Hill, Mayor

Keith Baynes, Town Attorney

Rich Taylor

Ron Francis

Sharon Weygand, Town Administrator

Valerie Walls, Clerk/Treasurer

Mayor Hill brought the meeting to order at 6:30pm followed by the Pledge of Allegiance.

Approval of minutes from March 8, 2010

MOTION: Lee Collins made a motion, Bob Miller seconded to approve the minutes from March 8, 2011. Rebecca Mann abstained (she was absent). Aye 4 Nay 0.

Public Announcements:

Sharon Weygand: The Planning & Zoning Workshop has been moved to next Thursday.

Lee Collins: On 4/18 the bridge will be going to on lane from 9pm – 5am.

Rebecca Mann: Can we ask the Corp to reposition the marquee; it blocks your line of sight. Can not see the north bound traffic when pulling out. Maybe move to the shoulder.

Frank Vari: The Second Annual 5K Run/Walk will be on June 26th on the Northside of Town, same as last year. 4/23 starts single stream recycling

Bob Miller: This Saturday is Opening Day for the Little League. Parade starts at 8:30am.

Dean Geracimos: Adding on to Bob's comment. There have been games out there this week and the playground equipment is being used.

Commissioner Reports:

- Ron Francis Public Works
 Recycling
 Noise
 Water/Sewer- Artesian Report attached

The drain was put in today at Pell Gardens.

- Rebecca Mann Public Safety-Sgt Leas Report from Sheriff's Dept attached
 Charter
 Ethics

We are required to either adopt the County Plan for Emergency Management or create our own. We are planning on adopting the County plan, but that will be addressed later in the meeting. Sgt Leas to check on golf cart use on Biddle Street.

- Rich Taylor P&Z Commission
 Historic Commission
 Parking Committee

There was not a Parking Committee Meeting for March. There are parking bumpers that need to be repainted 'Permit Parking Only'; Rich will get with Sharon to schedule Mike to work on them. Historic Committee had two action items, the Horizon application was denied because no one was present to answer questions. Information signs at 98 Bohemia (Pell Gardens) and 104 ½ Bohemia were approved. Discussion/Recommendations were made for changes in the Historic Regulations and they will be presented at the P&Z Workshop.

At the April 7th Planning Commission meeting approved sandwich board sign for 98 Bohemia Avenue, a business sign for 104 ½ Bohemia Avenue and a business sign for 203 Bohemia Avenue. From the Historic they receive a list on what constitutes maintenance verses what constitutes repairs and that will be incorporated into the zoning ordinances with Chris Jakubiak. Bridgepoint setbacks were discussed, specifically lot #19, but it effects 16-19 and that's on the agenda for later tonight.

The new 'Welcome to Chesapeake City' sign was installed by Scenic Byways and the Town was not consulted in the placement.

Harriett Davis: The sign originally was supposed to be on the south side of town, not the north side because the scenic byway starts at the south side of the canal. We thought it should be placed on the north side. There was a lot of discussion just to get it onto the north side of the bridge.

- Lee Collins Financial

For some reason, all of the water bills have not been received. According to the post office, they're being sorted, but they've been there since Wednesday. The budget will be reviewed under Valerie's report. The Water Sewer fund looks as though we will not have to borrow from the General Fund, a first in many years.

- Bob Miller Parks & Recreation Committee

Received an email from Buddy Shepard requesting the town take a look at beautification program around the boat dock on the north side of town. It's a focal point with people coming into Town. It will be discussed at the next Parks & Rec meeting.

Barb Wilkers: Easter Egg Hunt-probably had 150 kids, 300 people. 1100 eggs, but we needed probably 2000.

Office Reports:

- Sharon Weygand – Report attached
- Valerie Walls -P&L Report is included in the minutes book. Powerpoint presentation of the Budget for FY 10-11.
- Frank Hill

Old Business

- **Charter** – Council is to review list and prepare comments for the workshop
- **Gulick Proposal/Union St Park (Not Verbatium)**

Frank Hill: Mr. Gulick filed a lawsuit with the Town to claim Union St Park as his property. We've got records that say it's Town property and it's never been his property. To withdraw the lawsuit, he would like a gate put into the fence so he has access to the back of his property. There was an agreement put together, Council has a copy in their binder. It states he will buy the materials to put the gate in the fence and he wants to put in two redbud trees. He claims the bushes there are too close to his building. Mr. Gulick would like to avoid the lawsuit if it can be worked out. The agreement was put together by the Mayor & Town Attorney Keith Baynes and Mr. Gulick and his attorney. The council has discussed it.

Rebecca Mann: I don't see anything in here addressing what if a truck gets stuck and leaves deep ruts. If there's any damage to the property caused by him accessing the back of his, who is responsible for repairing?

Frank Hill: That can be added. This agreement is to avoid a lawsuit. We are trying to appease him and get past this.

Resident: Is that all you have to do to get you way in this Town? Threaten a lawsuit?

Frank Hill: I don't consider it as just a lawsuit. I consider it trying to reasonable with the neighbors. I don't see a problem with him wanting to access his property.

Resident: I don't have access to the rear of my property.

Frank Hill: It's not hurting anybody and he's paying for the materials.

Resident: I'm assuming this has been approved by Planning and Zoning as well?

Frank Hill: No, it hasn't gone to Planning & Zoning yet because we haven't signed the agreement yet.

Carla Miners: What if Planning & Zoning doesn't approve it. Then the agreement is null & void?

Keith Baynes: What does Planning & Zoning have to approve? It's town property.

Carla Miners: I don't understand what he's suing for?

Keith Baynes: He's suing for ownership. We disagree. This is an agreement based on the discussions between the Mayor & Mr. Gulick.

Carla Miners: Is he paying taxes on it?

Keith Baynes: I don't know what he's paying taxes on.

Frank Hill: He has his own records that show that his townhouse sits on and it doesn't include Union Street Park. There was an ordinance years ago that the town claimed properties not listed in someone else's deed, alley ways, streetways. I don't feel he has a case.

Carla Miners: I understand he gets into his property just fine right now. When the Northside put the fence in, they consulted with him. Why can't he get through now, when he could get through before?

Frank Hill: He can get in if he drives through part of his parking lot. Part of his claim was if his car is parked there, and he's not home, a neighbor will not be able to access the back of the townhouses.

Carla Miners: I think it's been working okay since 1988.

Resident: I don't think he's any different from the rest of us. We've had to pull stuff up through windows.

Bill Wilkers: This has been going on for years. Everyone up there knows this property belongs to the Town and this suit has no merit. The problem is, when you agreed to meet with him and do this the Northside Association was not asked to attend the meeting, neither was anyone from Parks & Rec. Why were they not included? All the money spent when Mr. Allison was the Town Attorney to verify it was Town property before the fence went in, why are you doing this? Why can't the Town just say, 'I'm sorry, no...sue us'? This is nuts! The fence was put in legally and through proper channels. All because one town resident wants to complain and make this property his own. He's been trying to do this ever since he moved in there. It's so typical of a person moving into a pig farm and then complains about the stench. It was a Town park before he moved there and it's still a park now.

Frank Hill: It will continue to be a Town Park.

Elaine Shepard: But he is controlling it.

Frank Hill: Would you feel comfortable spending another \$20,000-30,000 to go through a lawsuit?

Bill Wilkers: My question is to the Town lawyer: Do you think this suit has any merit to it?

Keith Baynes: I had serious doubts of the merits of the lawsuit.

Bill Wilkers: That's what we pay Mr. Baynes for.

Carla Miners: I think we should go forward defending ourselves with this lawsuit and he (Mr. Gulick) should pay the court costs.

Keith Baynes: You won't get attorney's fees. It doesn't work that way.

Bill Wilkers: The life blood of Chesapeake City is its volunteers. Volunteers put that fence in with Parks & Rec. And not one person was told about this. It's a slap in the face. Council is elected to do what's right for this town and not just one individual.

Frank Hill: How is the Town going to be hurt putting this gate in?

Bill Wilkers: You are showing preferential treatment to one individual.

Frank Hill: We're trying to cooperate with a town resident.

Bill Wilkers: We were cooperative with him. We constructed that fence so he could get in there any time he wants. I've seen his truck in there numerous times. At one point (last year) he had his trailer for sale, with a big sign on it in Union St Park so people could ride by and get his phone number.

Bob Miller: It sat there for quite a while.

Frank Hill: Four feet of that beyond his parking lot is his land.

Bill Wilkers: Exactly. That's why we put the fence the way it was. No part of that fence is on his property whatsoever.

Carla Miners: What can we do about it now? I don't think it should be a done deal. I think it belongs to Planning & Zoning first and then come back to Council.

Frank Hill: I don't know that Planning and Zoning has any type of decision. If we decide to put a gate in there, we will go through the proper channels and permits.

Resident: Why does the gate have to be locked? Maybe I want to pull my car up to the fence and look at the water. If he's able to pull his truck up there, why is it being locked?

Frank Hill: It's locked so you can't pull a car up and watch the water

Resident: But he can?

Frank Hill: No he can't. It specifically states in this agreement that it is supposed to be temporary access for deliveries and maintenance only. If he parks his vehicle overnight, we'll lock it up tight and he'll never get a key.

Bob Miller: The one thing I disagree with this is allowing him to have a key. He should have to contact the Town when he needs to access it. You're giving him control of the property with the key.

Bill Wilkers: It's the first step in acquiring the property.

Frank Hill: The discussion for him having the key was he could open for his deliveries, maintenance and the same thing for his neighbors. Once and if we catch him violating that, we change the locks and they do not have access.

If this goes to court, the other two residents said they would join him (Mr. Gulick) in the suit.

Resident: If it's town property and he has a key, I want a key too. There's no reason I can't have one.

Barb Wilkers: I just have to say since I've worked with Parks and Rec and the Northside Association this has been a problem ever since I can remember. We finally have things looking good. I'm totally frustrated with it.

Frank Hill: I'm sorry you feel that way. If I had known it was going to raise such a fuss, then we would have sent you all letters and had a meeting.

Keith Baynes: From a legal standpoint, he could never claim ownership of this property by adverse possession.. In the agreement, he is acknowledging that the property is owned by the Town. He is also acknowledging that any use of this property for temporary deliveries is with the permission of the Town.

Carla Miners: Where does he get the right to replace our plantings?

Keith Baynes: That was something negotiated between the Mayor and Mr. Gulick.

Frank Hill: His claim is those trees are too close to his foundation. My opinion, those trees have been there for ten to fifteen years, and they haven't done any damage yet. But it was one thing he insisted on.

Sylvia Keissling: Rebecca brought up a good point about the ruts. When he was working on the back of his property before the fence was installed he left bad ruts. Previous years, the Town has paid to have them repaired.

MOTION: Ron Francis made a motion, Bob Miller seconded to terminate the agreement and let the trial begin.

Discussion on the motion: Mr. Baynes feels the legal fees could be \$3000 or less; and feels confident in the Town's position.

VOTE Aye: 5 Nay: 0 Motion carried. Court date is June 8th at 9:30am 2nd Fl of the old courthouse.

- **Event/Rental Form**

It was suggested to add the TULIP program information to the application. More information is needed for parades regarding crossing the state highways.

Note: Rebecca Mann left at 8:40 pm because of an illness.

- **Bridgepoint PWA**

MOTION: Rich Taylor made a motion, Ron Francis seconded to approve the Public Works Agreement for Bridgepoint Townhomes with minor corrections. Aye: 4 Nay: 0

- **Atlantic Broadband Franchise Agreement**

Email from Joe on April 2 he did not get approval to give up complimentary phone service. We're waiting to hear back for more information.

- **Serenity Fundraiser for Fitness Trail**

The Town distributes a flyer stating that Serenity will donate 50% of their proceeds on a Wednesday to the Town for those clients that come in with the flyer. It was suggested to put the flyers into the July water bills.

MOTION: Bob Miller made a motion, Rich Taylor seconded that we set-up a fundraiser with Serenity for the fitness trail equipment. All in favor, motion carried.

New Business

1. **Introducing Charter Amendment Resolution 4.12.2010.1 to repeal and reenact, with amendments, Charter Section 26-58 pertaining to general obligation borrowing.**
Public Hearing will be Monday April 26th 6:30pm

2. **Bridgepoint Setbacks**

The problem is houses #1 and #19, the ones closet to Basil Avenue when the plat was approved by the Town, it was approved with those homes too close to Basil Avenue, with not enough set-back. They will need a variance granted by the Board of Appeals or one of the other options listed from Jim Eder's suggestions.

MOTION: Bob Miller made a motion, Lee Collins seconded to accept Planning and Zonings recommended, Option 1; leaving the plat as it is currently configured and apply a variance from Board of Appeals; and to include Lot #1 if necessary. All in favor, motion carried.

3. Proposal for Ferry Slip

There are pilings where the ferry used to be to keep the cars from going into the water. It is the only evidence of the ferry. There is no historical significance. The pilings are falling apart. To restore the pilings could cost around \$2600.

Ron Francis made a motion to save the old traffic stop. The motion died for the lack of a second.

ACTION ITEMS

1. Grass Cutting Contracts

Ron Francis made a motion, to reject all three bids. Motion died for lack of a second.

MOTION: Ron Francis made a motion, Lee Collins seconded to accept the lowest bid, Total Outdoor Maintenance, Inc. All in favor, motion carried.

2. Credit Card Fees

MOTION: Ron Francis made a motion, Bob Miller seconded to accept fees for credit card use. All in favor, motion carried..

3. Water/Sewer Clerk Position

MOTION: Ron Francis made a motion, Bob Miller seconded to hire Malia Kinimaka for permanent part-time position, working 32 hours a week at \$13 hour. All in favor, motion carried.

4. Resolution 3.8.2010.1 Hazard Mitigation Plans for Chesapeake City and Cecil County Govt.

MOTION: Bob Miller made a motion, Lee Collins seconded, to approve Resolution 3.8.2010.1 Hazard Mitigation Plans for Chesapeake City and Cecil County Govt. All in favor, motion carried.

PUBLIC COMMENT –Not verbatim

Ron Francis: Why can't we get more State Police coverage? They drive down 213, why can't they come through Town?

Lee Collins: Requesting a closed session before the workshop to discuss personnel issues.

NOTE: Meeting will be April 21st after the Parks & Rec meeting at 5:30pm.

Dean Geracimos: Does the Town have the right to add a 1% sales tax for the Town?

Ocean City charges an additional 3% tax on their food and beverages and that tax goes into a fund for promoting the Town. How could we do something like that?

Keith Baynes: It had to come from Annapolis. There had to be some legislation to mandate it. The Town does not have that taxing authority.

MOTION: Ron Francis made a motion, Lee Collins seconded, to adjourn the meeting at 9:41pm. All in favor; motion carried.

Submitted by:

Approved by:

D. Valerie Walls, Clerk Treasurer

Frank Hill, Mayor